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Message Text

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ACTION SS-25

INFO OCT-01 SSO-00 ISO-00 /026 W
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O 071902Z AUG 75
FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC IMMEDIATE 1094

C O N F I D E N T I A L SAN JOSE 3348

STADIS//

EXDIS

E.O. 11652: GDS
TAGS: PFOR, PGOV, CS
SUBJECT: COSTA RICAN EXTRADITION LAW

REF:
A. STATE 186401
B. STATE 180661
C. STATE 182259
D. STATE 158378
E. STATE 144758 AND PREVIOUS

1. EMBASSY HAS PIECED TOGETHER FROM REFTELS B, C, D, AND E TWO DOCUMENTS FOR PRESENTATION TO UMANA AND TO PRESIDENT ODUBER ON EXTRADITION LAW. ONE IS A SINGLE ARTICLE-BY-ARTICLE LISTING OF LANGUAGE CHANGES AS TRANSMITTED IN REFTELS B AND C IN SPANISH AND ENGLISH. THE OTHER IS AN ARTICLE-BY-ARTICLE ACCOMPANYING COMMENT ON OUR SUGGESTED CHANGES TRANSMITTED BY DEPARTMENT IN ENGLISH (ONLY) IN REFTELS D AND E. BEFORE PRESENTATION TO PRESIDENT ODUBER AND TO UMANA OF PACKAGE CONSISTING OF BOTH DOCUMENTS (LANGUAGE CHANGES AND COMMENTS) IN SPANISH ONLY, EMBASSY WOULD APPRECIATE DEPARTMENT'S REVIEW OF OUR SPANISH VERSION OF THE COMMENTS, TRANSMITTED IN PARAGRAPH 5 BELOW.

2. OUR OBJECTIVE IN PRESENTING THE TWO DOCUMENTS
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IS TO PROVIDE THE PRESIDENT AND HIS

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ASSISTANT ATTORNEY GENERAL WITH A COMPLETE,
SELF-CONTAINED AND SELF-EXPLANATORY PACKAGE OF
USG-SUGGESTED LANGUAGE CHANGES AND REASONS
THEREFORE ON THE EXTRADITION LAW REFORM. EMBASSY
CONSIDERS THIS A UNIQUE OPPORTUNITY TO PRESENT
USG CASE, AT EXPRESS INVITATION OF ODUBER,
AND WE WISH TO DO SO WITH THE SECURITY THAT WHAT
WE PROVIDE IS CORRECT, PRECISE, COMPLETE, AND
NOT SUBJECT TO DIFFERENT INTERPRETATIONS DUE TO
LANGUAGE TRANSITION. IN ABSENCE OF POSSIBILITY
OF REVIEW OF THIS PACKAGE BY COSTA RICAN COUNSEL,
DEPARTMENT'S REVIEW OF OUR TRANSLATION IN OUR VIEW
IS IMPERATIVE. PLEASE RESPOND BY IMMEDIATE CABLE.

3. IN RESPONSE TO AMBASSADOR'S QUESTION TO
PRESIDENT ODUBER RE THE EXTRADITION LAW IN HIS
MEETING AUGUST 6, THE PRESIDENT STATED THAT HE WANTS
TO SEE THE LAW AMENDED AND VESCO EXTRADITED, BUT
HE WANTS TO DO SO IN ACCORDANCE WITH THE LAW. HE REITERATED THAT
HE IS AWAITING OUR COMMENTS ON HOW TO AMEND THE
PRESENT DRAFT LEGISLATION. THUS, NECESSITY FOR A
RAPID RESPONSE TO THE PRESIDENT IS ALL THE MORE
IMPERATIVE.

4. EXTRADITION BILL IS NOW IN SECOND PLACE ON
THE AGENDA FOR THE SECOND HALF OF THE ORDINARY
SESSION OF THE ASSEMBLY, WHICH RUNS FROM SEPTEMBER
TO NOVEMBER.

5. DEPARTMENT'S COMMENTS REQUESTED ON FOLLOWING
TEXT:

EXPLICACIONES Y COMENTARIOS SOBRE MODIFICACIONES PARA
LEY EXTRADICION:

ARTICULO 1: EL OBJECTIVO DE ESTE CAMBIO ES
ASEGURAR QUE EN NINGUN CASO SE APLICARA UNA LEY
DOMESTICA DE TAL FORMA QUE NEGARIA UN PEDIDO DE
EXTRADICION HECHO DE ACUERDO CON EL TRATADO.
ARTICULO 2(E): PUESTO QUE MUCHOS TRATADOS DE
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EXTRADICION NO INCLUYEN UNA LISTA DE CRIMINES QUE
PUEDEN SER OBJECTO DE EXTRADICION, EL OBJECTIVO DE
ESTA PROVISION TAL COMO ESTA REDACTADA PUEDE SER
LA ELIMINACION DE PEDIDOS DE EXTRADICION PARA CRIMINES
FRIVOLOS O NO SERIOS. LA LEY COSTARRICENSE NO
ESTIPULA MULTAS PARA LO QUE SE CONSIDERAN DELITOS
(FELONIES) EN LOS ESTADOS UNIDOS, PERO LA LEY FEDERAL
Y ESTATAL EN LOS ESTADOS UNIDOS SI ESTIPULA MULTAS.

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EL RESULTADO DE ESTA PROVISION TAL COMO ESTA
REDACTADA SERIA NO PERMITIR LA EXTRADICION PARA LA
MAYORIA DE LOS DELITOS (FELONIES) EN LOS ESTADOS
UNIDOS. POR ESO SE HA SUGERIDO EL CAMBIO.
ARTICULO 2(F): LA MODIFICACION SUGERIDA FORMA
PARTE DE MUCHOS TRATADOS DE EXTRADICION VIGENTES
ENTRE LOS ESTADOS UNIDOS Y MUCHOS PAISES, INCLUSO
PAISES LATINOAMERICANOS. ESTA MODIFICACION, BASADA
EN EL CONCEPTO DE JURISDICION PARALELA DE LOS ESTADOS,
ES ACEPTABLE SI COSTA RICA TENDRIA JURISDICION SOBRE
UNO DE SUS CIUDABJOOS QUE COMETE UN CRIMEN EN EL
EXTRANJERO (BAJO CIRCUMSTANCIAS COMO EL CASO VESCO).
COMO ALTERNATIVA, EL ARTICULO 2(F) PODRIA ELIMINARSE.
ARTICULO 2(G): LA MODIFICACION ESTA CONFORME
CON EL LENGUAJE TRADICIONAL DE TRATADOS DE
EXTRADICION Y LA PRACTICA INTERNACIONAL. EL
LENGUAJE REDACTADO EN LA PROPUESTA LEY PODRIA
INTERPRETARSE DE TAL FORMA QUE NO PERMITIERA LA
EXTRADICION DE CUALQUIER POLITICO, A PESAR
DE LA GRAVEDAD DE SUS CRIMINES COMUNES. POR EJEMPLO,
EL DICTADOR VENEZOLANO PEREZ JIMENEZ FUE ENTREGADO A
VENEZUELA PARA LA PROSECUCION PARA CRIMINES COMUNES
UNA VEZ QUE LAS CORTES DE LOS ESTADOS UNIDOS DECIDIERON
QUE NO ESTABA SIENDO BUSCADO POR CRIMINES DE UN
CARACTER POLITICO. OBVIAMENTE, HUBO ALGUNA MOTIVACION
POLITICA PARA EL PEDIDO DE EXTRADICION. PERO LO
IMPORTANTE NO ES LA MOTIVACION DEL PEDIDO, SINO EL
CARACTER DEL CRIMEN POR LO CUAL SE PIDE LA EXTRADICION
Y EL TRATO QUE EL INDIVIDUO RECIBIRA A SU REGRESO.
ARTICULO 2(H): AUNQUE SE RESPECTA EL PRINCIPIO
HUMANITARIO QUE ES BASE DE ESTA PROVISION, ESTA
SUBJECTO A ABUSO SERIO Y PUEDE RESULTAR EN PROBLEMAS
EN LAS RELACIONES INTERNACIONALES EN SU APLICACION.
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POR ESO, LA MAYORIA DE LOS PAISES PREFIEREN TRATAR
ESTE PROBLEMA POR EVITAR TRATADOS DE EXTRADICION CON LOS
ESTADOS QUE NO TIENEN SISTEMAS CRIMINALES DE JUSTICIA
ADEQUADOS.
TODMAN

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